



Holden Kidwell
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February 20, 2008

RECEIVED

FEB 25 2008

DEPARTMENT OF
WATER RESOURCES

Shelley W. Keen
Manager, Water Rights Permit Section
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RE: Correction to Transfer 73532

Dear Mr. Keen:

We are writing to follow up on your conversation with Peter Anderson of Trout Unlimited on December 13, 2007, where he discussed with you the need for a correction to Transfer No. 73532. We are asking the Department to consider correcting Transfer No. 73532 pursuant to Idaho Code § 42-5254, which IDWR previously used to authorize amendments of water right licenses. See e.a. *In the matter of License No. 61-07189 in the name of Magic West, Inc.*, Final Order (January 22, 1999); *In the Matter of Petition to Correct Water Right License Submitted by Darwin Mckay*, Preliminary Order Correcting License (February 1, 2000).

The correction that we are requesting is that the original point of diversion/rediversion on Badger Creek for decreed rights 33-00035A and 33-10997 be returned to those water right descriptions. This is consistent with the Application for Transfer we signed, the front page of which is attached as Exhibit A, which only requested an additional point of diversion. It did not request removal of our original point of diversion for these two water rights. IDWR's file copy of our Application, the front page of which is attached as Exhibit B, has a handwritten request to "change source", but that handwriting was not on our filed Application, it is not initialed by Pancheri, Inc., and is not consistent with the Application we filed. Being unaware of this handwritten change when we received your letter of August 24, 2007, approving our Transfer, we did not closely examine the document to determine whether IDWR had removed our original point of diversion because that was never a part of our Application.

We worked closely with Roger Warner of IDWR when we put together this Application for Transfer and he knew that we were not abandoning our original point of diversion. We have simply agreed not to use the Badger Creek point of diversion for thirty years pursuant to a non-diversion agreement that was negotiated with the help of staff of the Idaho Resource Board's

Established in 1896

transaction program. Obviously that non-diversion agreement would not be necessary if we intended to make a permanent change in our point of diversion. I have attached a copy of the Non-Diversion Agreement as Exhibit C. Perhaps the misunderstanding occurred because Mr. Warner left IDWR, and the new staff that processed our Transfer Application was unfamiliar with its background.

Our requested change can be made with no concern that other water users would be affected. Anyone examining our original Transfer Application pursuant to the published notice would have seen that it was for an additional point of diversion. No protests to this change were received. While we believed our intentions were clear, particularly in light of the information we provided to Roger Warner, perhaps we could have been more clear by checking the "other" box on the first page of the Transfer Application and indicated that we were adding a source. However, because Badger Creek is tributary to the Little Lost River, we believe the transfer can be amended as we have requested without the need to file another transfer application.

Additionally, because the Idaho Water Resource Board was concerned that the non-diversion agreement for the Badger Creek point of diversion be reflected on the water rights enforced by the watermaster in Water District No. 33, we agree that the following condition should be added when the original point of diversion is restored to these water rights:

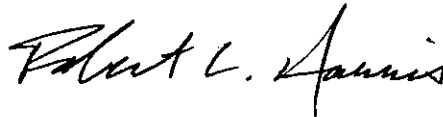
The diversion point on Badger Creek, NESESW, T09N., R27E., Sec. 34 within Butte County, Idaho, shall not be used under this water right prior to December 31, 2037.

The approved transfer was also carefully conditioned to ensure that no water users would be injured by the additional point of diversion. Obviously no injury would occur by the retention of our original points of diversion.

We have attached as Exhibit D a copy of the Transfer Approval with our proposed changes handwritten into the document and initialed by us. We hope you will thoughtfully and carefully consider our request. Thank you for your consideration.

Shelley W. Keen
Idaho Department of Water Resources
February 20, 2008
Page 3 of 3

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Harris". The signature is fluid and cursive, with the first name "Robert" and last name "Harris" clearly distinguishable.

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

c: Pancheri, Inc.

Exhibit A
Original Application

RECEIVED
FEB 25 2008
 STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES
 DEPARTMENT OF
 WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Transfer No. _____

Name of Applicant Pancheri Inc. Phone (208) 767-3419Post Office address 1494 Highway 22; Howe, ID 83244**A. PURPOSE OF TRANSFER**

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes To add a point of diversion on the Little Lost River.**B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE**

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
33-10997	4/15/1953	0.17 cfs	Irrigation	04/15 to 10/31
33-35A	03/06/1907	0.72 cfs	Irrigation	04/01 to 11/01
33-2068A	01/14/1953	2.21 cfs	Irrigation	04/01 to 11/01
				to _____

2. Total amount of water being transferred 2.28 cubic feet per second and/or 430.5 acre-feet per annum.3. Source of water Groundwater and Badger Creek tributary to Little Lost River

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
	NE	NW	NE	33	09N	27E	BUTTE	LITTLE LOST RIVER, BADGER CREEK
SEE ATTACHED EXPLANATION								

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	27E	3		1.0			25.0	4.0		32.0	32.0					15.0			
															4.0				
												31.0	12.0	22.0					

Total Acres 178

Exhibit B
IDWR File Application

RECEIVED

FEB 12 2007

Transfer No. 73532

Page 1 of 1

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Bureau of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of Applicant Pancheri Inc.

Phone (208) 767-3419

Post Office address 1494 Highway 22; Howe, ID 83244

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use

- ☐ Change nature of use ☐ Change period of use ☒ Other Change source

2. Describe the reason for the proposed changes To add a point of diversion on the Little Lost River.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

<u>1. Right Number</u>	<u>Priority</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>	
<u>33-10997</u>	<u>4/15/1953</u>	<u>0.17 cfs</u>	<u>Irrigation</u>	<u>04/15</u>	<u>to 10/31</u>
<u>33-35A</u>	<u>03/06/1907</u>	<u>0.72 cfs</u>	<u>Irrigation</u>	<u>04/01</u>	<u>to 11/01</u>
<u>33-2068A</u>	<u>01/14/1953</u>	<u>2.21 cfs</u>	<u>Irrigation</u>	<u>04/01</u>	<u>to 11/01</u>
					<u>to</u>

2. Total amount of water being transferred 2.28 cubic feet per second and/or 430.5 acre-feet per annum.

3. Source of water Groundwater and Badger Creek tributary to Little Lost River

4. Point(s) of Diversion:

[illegible]

5. Lands irrigated or place of use:

[illegible]

Total Acres 178

73532

Exhibit C
Non-Diversion Agreement

NON-DIVERSION AGREEMENT

THIS AGREEMENT is made and entered into by and between Pancheri, Inc., an Idaho corporation, 1494 Hwy 22, Howe, ID 83244, hereinafter ("Owner"), and Trout Unlimited, Inc., a Michigan nonprofit corporation, whose Idaho water office address is 151 N. Ridge Avenue, Suite 120, Idaho Falls, ID 83402 ("TU"), both of whom may be collectively referred to herein as the "Parties."

RECITALS

- A. Owner is the sole owner of certain real property located in Butte County, Idaho, which is described more particularly in the attached **Exhibit A** (the "Property").
- B. Owner is also the holder of water rights authorized for application on the Property for specified uses under Water Right Nos. 33-32A, 33-33A, 33-35A, 33-2068A, and 33-10997 issued by the Idaho Department of Water Resources ("IDWR"), copies of which water right reports are attached hereto as **Exhibit B** and are hereinafter referred to as the "Water Rights."

Water Right	Priority	Diversion Rate	Acre-feet
33-32A	1891	2.14 cfs	55
33-33A	1905	2.2 cfs	55
33-35A	1907	0.72 cfs	105.9
33-2068A	1953	2.21 cfs	114
33-10997	1953	0.17 cfs	9
	Total	4.48 cfs	

- C. The Parties have been working together to increase efficiency of the Owner's irrigation systems, replace diversion structures, and restore flows and habitat to and along Badger Creek and the Little Lost River.
- D. TU is working with the IDWR, a Qualified Local Entity participating in Bonneville Power Administration's ("BPA") Columbia Basin Water Transactions Program, to acquire funds through the BPA to reimburse Owner for this Agreement.
- E. The purpose of this Agreement, hereinafter referred to as "Purpose," is to provide additional water during the irrigation season to enhance the flow of Badger Creek to facilitate migration and rearing of juvenile bull trout in Badger Creek and the Little Lost River watershed.
- F. Owner and TU wish to enter into this Agreement to confirm the Parties' respective commitments toward this Purpose.

NOW THEREFORE, in consideration of the foregoing recitals, and the payments, obligations, covenants, and agreements hereinafter set forth, the legal sufficiency of which the Parties hereby acknowledge, Owner and TU agree as follows:

1. AGREEMENT

- 1.1. Non-diversion. Owner shall not divert, or allow any other person or entity to divert, water from Badger Creek.
- 1.2. Additional Point of Diversion. TU and Owner agree to acquire approval for an additional Point of Diversion with the Idaho Department of Water Resources, consistent with application for Transfer, as illustrated in **Exhibit C**, with the condition that the Badger Creek Point of Diversion will not be used for thirty years pursuant to this Agreement.
- 1.3. Diversion Structures. TU reserves the right to remove, modify, or replace on Badger Creek any diversion structures and Owner agrees not to build or place on Badger Creek any structures to divert water from Badger Creek, or allow any other person or entity to build or place such structures on Badger Creek.
- 1.4. Monitoring. TU will monitor and evaluate the instream flow reach to ensure compliance with this agreement, and to evaluate the overall effectiveness of the instream flow.
- 1.5. Access for Monitoring. Owner agrees to grant TU, its representatives, successors, or assigns reasonable access to all stream reaches on the Property to properly monitor flow and habitat restoration to administer this Agreement and to otherwise install, maintain, and/or replace flow gages or other equipment necessary to ensure protection of the instream flows and adherence to the terms and conditions of this Agreement. All entry will be in a manner that will not unreasonably interfere with the proper uses being made of the Property at the time of such entry, provided that, except in cases where TU determines that immediate entry upon the Property is essential to prevent or mitigate a significant violation of this Agreement, such entry shall be upon prior notice given by or on behalf of TU to one or more of the then owners of the Property, and TU shall not in any case unreasonably interfere with Owner's use and quiet enjoyment of the Property.
- 1.6. Rights of Owner. Owner reserve to themselves, and to their personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property that are permitted and are not expressly prohibited that are consistent with the Purpose of this Agreement and will not result in physical or perceived injury to or the destruction of flow or habitat restoration.

2. REIMBURSEMENT

- 2.1. Payment. The Parties agree that TU shall pay Owner a one-time payment of \$75,000 upon delivery of funds from the BPA through IDWR. Upon final signature of this agreement, TU shall diligently and promptly complete the documentation necessary to request the funds from BPA. The one-time, \$75,000 payment constitutes reimbursement for the entire Term of Agreement as specified above.

2.2. Failure to Provide Funds. Owner acknowledges that the funding is dependant upon grant availability from federal, state, and private funds. TU shall not be liable for failure to provide funds that have been committed to the project for reasons beyond its control. The Parties agree that the loss of available funds that have been committed to the project shall not obligate TU to Owner. If TU is unable to provide funding committed to this project, then Owner is released from any obligation to honor the terms of this agreement, and TU shall execute any and all documents necessary to change the purpose and place of use of Owner's Water Rights back to that in existence at the date of execution of this Agreement.

3. REPRESENTATIONS AND WARRANTIES

Owner hereby represents and warrants to TU, that:

- 3.1. There are no actions, proceedings, or investigations pending or threatened against Owner which would interfere with Owner's ability to enter into this Agreement, and to consummate the same.
- 3.2. To the best of Owner's knowledge and belief, there are no uncured violations of federal, state, or municipal laws, ordinances, or requirements outstanding that relates directly or indirectly to the Water Rights subject to this Agreement.
- 3.3. No casualty and/or condemnation with respect to the Water Rights subject to this Agreement, or any part thereof, has occurred and no such condemnation is pending or threatened.
- 3.4. To the best of Owner's knowledge and belief, there are no uncured violations of any law, ordinance, order, or regulation of any governmental authority having jurisdiction of the Water Rights subject to this Agreement requiring any work, repair, construction, alteration, or installation on, or in connection with such Water Rights that have not been complied with, and paid for.
- 3.5. Owner has the authority to enter into this Agreement, and to consummate the transaction contemplated herein.
- 3.6. No portion of the Water Rights subject to this Agreement is currently the subject of any other type of proceeding except as described in this Agreement, and no portion of such Water Rights has been changed or modified by Owner from the terms and conditions identified under each of the Recitals referenced above.
- 3.7. Owner has not entered into any agreement regarding the Water Rights subject to the Agreement, and that title to such Water Rights is free and clear of any claims or encumbrances arising by, through, or under Owner.

4. REMEDIES

- 4.1. Notice of Violation; Corrective Action. If TU determines that a violation of the terms of this Agreement has occurred or is threatened, TU shall give written notice to Owner of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property or Water Right resulting from any use or activity inconsistent with the Purpose of this Agreement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by TU.
- 4.2. Injunctive Relief. If Owner fails to cure the violation within fifteen (15) days after receipt of notice thereof from TU, or under circumstances where the violation cannot reasonably be cured within a fifteen (15) day period, fail to begin curing such violation within the fifteen (15) day period, or fail to continue diligently to cure such violation until finally cured, TU may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Agreement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury. Unless otherwise required by law, no bond or other security is required of TU in seeking an injunction.
- 4.3. Scope of Relief. TU's rights apply equally in the event of either actual or threatened violations of this Agreement. Owner agrees that TU's remedies at law for any violation of this Agreement are inadequate and that TU shall be entitled to injunctive relief described in Paragraph 4.2, both prohibitive and mandatory, in addition to such other relief to which TU may be entitled, including specific performance of the terms of this Agreement, without the necessity of proving either actual damages or the inadequacy of other legal remedies. TU's remedies shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 4.4. Forbearance. Forbearance by TU to exercise its rights under this Agreement in the event of any breach of any term of this Agreement by Owner shall not be deemed or construed to be a waiver by TU of such term or of any subsequent breach of the same or any other term of this Agreement or of any of TU's rights under this Agreement. No delay or omission by TU in the exercise of any right or remedy upon any breach by Owner shall impair such right or remedy or be construed as a waiver.
- 4.5. Default by Owner. Upon failure or default of Owner to satisfy any obligation, as herein provided, TU may, fifteen (15) days after providing Owner with written notice by certified mail of such failure or default, declare this Agreement to be null and void and of no further force and effect. If such failure or default has not been cured by Owner within such time period, Owner shall repay or authorize repayment of all amounts previously paid by TU to Owner pursuant to this Agreement. If the Owner terminates this agreement before the completion of the

term as described above, then Owner shall repay TU a pro rated share of the funds based upon the difference between the term of this Agreement and the number of years completed prior to Owner's default.

5. MISCELLANEOUS PROVISIONS

5.1. Commission. The Parties agree that no commissions are due and owing as a result of this transaction.

5.2. Indemnification. Owner agrees to indemnify and hold harmless TU from and against any demand, claim, or action arising out of or in any way related to Owner's breach of this Agreement, including without limitation, the failure of Owner's representations and warranties identified under Paragraph 3 herein to be true.

5.3. Attorneys Fees and Costs. Anything to the contrary herein notwithstanding, in the event of any suit, action, or arbitration arising out of this Agreement, the prevailing party shall be entitled to all reasonable attorneys fees and costs, including such fees and costs as may be incurred on any subsequent appeal or additional review.

5.4. Notice. Whenever any notice, demand, or request is required or provided for under this Agreement, such notice, demand, or request shall be provided in writing to the following addresses or such other addresses as the Parties may indicate in writing, by postage prepaid, certified, or registered mail:

To TU: Kimberley T. Goodman, Director, Idaho Water Project
Trout Unlimited
151 N. Ridge Ave., Ste 120
Idaho Falls, Idaho 83402

To Owner: Pancheri, Inc.
1494 Hwy 22
Howe, Idaho 83244

Notices shall be deemed to have been delivered upon receipt by the other party, unless the notice is returned and no forwarding address provided to the other party, and then notice shall be deemed to have occurred upon mailing.

5.5. Binding Effect. The undersigned have the legal authority to execute this Agreement and all provisions hereof shall apply to, bind, and inure to the benefit of the Parties, their agents, heirs, successors, and assigns.

5.6. Complete Agreement. This Agreement supersedes any and all prior agreements, written and oral, between the Parties and constitutes the complete and entire agreement of the Parties.

- 5.7. Assignment. Neither party may assign its rights and obligations under this Agreement without the other party's prior written consent.
- 5.8. Subsequent Transfers. Owner agrees to incorporate the terms of this Agreement, along with the recording date of this Agreement, in any deed or other legal instrument by which Owner divests itself of any interest in all or a portion of the Property or its Water Rights, including, without limitation, a leasehold interest. Owner further agrees to give written notice by certified mail to TU of the transfer of any interest at least fifteen (15) days prior to the date of such transfer. The failure of Owner to perform any act required by this paragraph shall not impair the validity of this Agreement or limit its enforceability in any way.
- 5.9. Headings for Convenience Only. The paragraph headings are for convenience only and the substantive portions hereof control without regard to the headings.
- 5.10. Survival. The representations, covenants, and warranties provided in this Agreement and the rights and obligations of the Parties hereunder shall survive the final signature.
- 5.11. Modification. This Agreement shall be modified by writing only, which writing must be executed by the Parties in order to be effective.
- 5.12. Controlling Law and Operation. This Agreement shall be governed under, and construed pursuant to, the laws of the State of Idaho or, as applicable, under the laws of the United States. Each of the parties hereto acknowledge that they have been given the opportunity to obtain counsel, or that they have been represented by counsel of their own choice and that they have read this Agreement and have had it fully explained to them by such counsel, and that they are fully aware of the context of this Agreement, and of its legal effect.
- 5.13. Changes in Idaho Law. Under no circumstances shall TU be liable to Owner for any damages or losses Owner may incur as a result of any changes in Idaho law.
- 5.14. Execution. This Agreement shall be executed in duplicate originals and each duplicate original shall be valid and enforceable against each party.
- 5.15. Effective Date. This Agreement shall be effective on the date that payment under section 2.1 is received by the Owner, and shall continue in effect until December 31, 2037.

IN WITNESS WHEREOF the parties executed this Agreement on the date following their respective signatures.

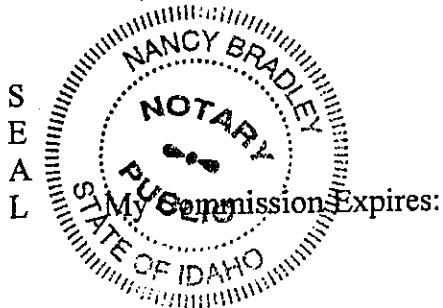
TROUT UNLIMITED, INC., a Michigan nonprofit corporation

By: *Kimberley Goodman*
Kimberley Goodman, Director
Idaho Water Project

STATE OF IDAHO)
) ss
COUNTY OF Bonneville)

On this 12 day of December, 2007, before me, *Nancy Bradley*, a
Notary Public in and for said State, personally appeared (*Kimberley Goodman*)
known or identified to me (or proved to me on the oath of), to be the Director of the
Idaho Water Project for Trout Unlimited, of the corporation that executed the instrument
or the person who executed the instrument on behalf of said corporation, and
acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.



Nancy Bradley
Notary Public for Idaho
Residing at:

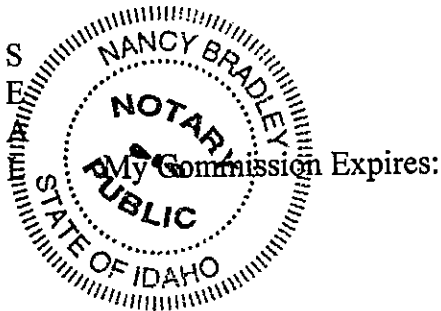
PANCHERI, INC., an Idaho corporation

By: Rory Pancheri
Rory Pancheri
Pancheri Inc.

STATE OF IDAHO)
COUNTY OF Bonneville) ss

On this 16 day of December, 2007, before me, Nancy Bradley, a Notary Public in and for said State, personally appeared (Rory Pancheri) known or identified to me (or proved to me on the oath of), to be the President of Pancheri, Inc., of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Nancy Bradley
Notary Public for Idaho
Residing at:

EXHIBIT A – The Property
EXHIBIT B – The Water Rights
EXHIBIT C – Transfer of Water Rights

Exhibit A

The Property

EXHIBIT "A"

LEGAL DESCRIPTION

BUTTE COUNTY

Township 6 North, Range 29 East, Boise Meridian, Butte County, Idaho.

Section 29: S 1/2
Section 30: S 1/2 SE 1/4, SE 1/4 SW 1/4
Section 31: N 1/2 NE 1/4, NE 1/4 NW 1/4
Section 32: SW 1/4 NE 1/4, NW 1/4, NE 1/4 SW 1/4, SE 1/4

Township 5 North, Range 29 East, Boise Meridian, Butte County, Idaho.

Section 4: Lot 4, SW 1/4 NW 1/4
Section 5: Lot 1

Township 7 North, Range 29 East, Boise Meridian, Butte County, Idaho.

Section 29: NW 1/4 NW 1/4 NW 1/4
Section 30: N 1/2 NE 1/4 NE 1/4, W 1/2 E 1/2, SE 1/4 NW 1/4,
SE 1/4 SW 1/4, W 1/2 N 1/2 NE 1/4 SW 1/4, S 1/2
NE 1/4 SW 1/4
Section 31: W 1/2 NE 1/4, E 1/2 NW 1/4

Township 8 North, Range 27 East, Boise Meridian, Butte County, Idaho.

Section 2: SW 1/4 SW 1/4
Section 3: Lots 2, 3, 4, S 1/2 N 1/2, NE 1/4 SW 1/4, SE 1/4
Section 11: SW 1/4, W 1/2 NW 1/4
Section 10: NE 1/4, E 1/2 SE 1/4, NW 1/4 SE 1/4

Township 9 North, Range 26 East, Boise Meridian, Butte County, Idaho.

Section 19: SE 1/4
Section 20: SW 1/4
Section 30: NE 1/4, NE 1/4 SE 1/4

Township 10 North, Range 26 East, Boise Meridian, Butte County, Idaho.

Section 11: NE 1/4 NE 1/4

Section 12: SW 1/4 NE 1/4, W 1/2, N 1/2 SE 1/4

Township 9 North, Range 27 East, Boise Meridian, Butte County, Idaho.

Section 33: E 1/2 SE 1/4

Section 34: W 1/2 SW 1/4, SE 1/4 SW 1/4, EXCEPT a parcel of land located in the SE 1/4 SW 1/4, more particularly described as follows:

Commencing at the Southeast corner of Section 34; thence West along the South line of Section 34 to the South Quarter corner of Section 34; thence North 00°02' West along the East line of the Southwest Quarter, more or less, to the center of Badger Creek, said point being the Real Point of beginning; thence continuing along said quarter line North 00°02' West 100.00 feet; thence South 89°58' West 100.00 feet to a point; thence South 00°02' East to a point in the center of Badger Creek; thence Northeasterly along the centerline of Badger Creek to the Point of Beginning.

Together with a roadway and utility easement 50 feet in width, the East line of which is described as follows:

Beginning at the South 1/4 corner of Section 34, Township 9 North, Range 27 East of the Boise Meridian running thence North 00°02' West along the North-South Centerline of said Section 34 to the North line of the Howe-Patterson Highway, which is the true point of beginning; running thence North 00°02' West along said North-South Centerline to the Centerline of Badger Creek.

Exhibit B

The Water Rights

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 71666

This is to certify that: PANCHERI INC
1494 HWY 22
HOWE ID 83244
(208)767-3419

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acre Limit	Total Acres	Source
33-32A	WR/Decreed	06/01/1891	2.14 cfs	N/A	N/A	55.0	LITTLE LOST RIVER ✓
33-33A	WR/Decreed	06/01/1905	2.20 cfs	N/A	N/A	55.0	LITTLE LOST RIVER ✓
33-10997	WR/Decreed	04/15/1953	0.17 cfs	N/A	N/A	9.0	GROUND WATER
33-35A	WR/Decreed	03/06/1907	0.72 cfs	N/A	N/A	105.9	BADGER CREEK ✓
33-2068A	WR/Decreed	01/14/1853	2.21 cfs	399 af	N/A	114.0	GROUND WATER ✓

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
33-32A	NO	NO	YES	NO	NO	NO
33-33A	NO	NO	YES	NO	NO	NO
33-10997	NO	NO	NO	NO	NO	NO
33-35A	NO	NO	YES	NO	NO	NO
33-2068A	NO	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

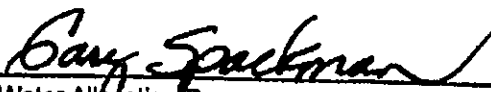
Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
33-32A	33-32A	2.14 cfs	N/A	55.0	178.0		N/A	N/A	N/A	N/A
33-33A	33-33A	2.20 cfs	N/A	55.0	178.0		N/A	N/A	N/A	N/A
33-10997	33-10997	0.17 cfs	N/A	9.0	178.0		N/A	N/A	N/A	N/A
33-35A	33-35A	0.72 cfs	N/A	105.9	178.0		N/A	N/A	N/A	N/A
33-2068A	33-2068A	2.21 cfs	399 af	114.0	178.0		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		4.48 cfs	N/A	178.0	178.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 25th day of October, 20 05

SUPPORT DATA

IN FILE # 33-32A



Chief, Water Allocation Bureau

WATER RIGHT NO. 33-32A
As Modified by Transfer No. 71666

In accordance with the approval of Transfer No. 71666, Water Right No. 33-32A is now described as follows.

Right Holder: PANCHERI INC
 1494 HWY 22
 HOWE ID 83244

Priority Date: June 01, 1891

Source: LITTLE LOST RIVER

Tributary: SINKS

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	2.14 CFS	
			2.14 CFS	

LOCATION OF POINT(S) OF DIVERSION:

LITTLE LOST RIVER NENWNE Sec. 33 Twp 09N Rge 27E BUTTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
08N 27E 3	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	109.0
	1.0				25.0	4.0		32.0	32.0				15.0				
09N 27E 33													4.0				4.0
09N 27E 34									31.0	12.0	22.0						65.0

Total Acres: 178

CONDITIONS OF APPROVAL

1. Rights 33-32A and 33-33A when combined shall not exceed a total diversion rate of 2.2 cfs and the irrigation of 55 acres.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
5. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

WATER RIGHT NO. 33-32A
As Modified by Transfer No. 71666

CONDITIONS OF APPROVAL

7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 25th day of October, 2005


Chief, Water Allocation Bureau

WATER RIGHT NO. 33-33A
As Modified by Transfer No. 71666

In accordance with the approval of Transfer No. 71666, Water Right No. 33-33A is now described as follows.

Right Holder: PANCHERI INC
 1494 HWY 22
 HOWE ID 83244

Priority Date: June 01, 1905

Source: LITTLE LOST RIVER

Tributary: SINKS

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	2.20 CFS	
			2.20 CFS	

LOCATION OF POINT(S) OF DIVERSION:

LITTLE LOST RIVER NENWNE Sec. 33 Twp 09N Rge 27E BUTTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
08N 27E 3	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	109.0
	1.0				25.0	4.0		32.0	32.0								
09N 27E 33													4.0				4.0
09N 27E 34									31.0	12.0	22.0						65.0

Total Acres: 178

CONDITIONS OF APPROVAL

1. Rights 33-32A and 33-33A when combined shall not exceed a total diversion rate of 2.2 cfs and the irrigation of 55 acres.
2. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

WATER RIGHT NO. 33-33A
As Modified by Transfer No. 71686

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 25th day of October, 2005


Chief, Water Allocation Bureau

WATER RIGHT NO. 33-35A
As Modified by Transfer No. 71666

In accordance with the approval of Transfer No. 71666, Water Right No. 33-35A is now described as follows.

Right Holder: PANCHERI INC
 1494 HWY 22
 HOWE ID 83244

Priority Date: March 06, 1907

Source: BADGER CREEK

Tributary: LITTLE LOST RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	0.72 CFS	
			0.72 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BADGER CREEK NESESW Sec. 34 Twp 09N Rge 27E BUTTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
08N 27E 3	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	109.0
	1.0				25.0	4.0		32.0	32.0				15.0				
09N 27E 33													4.0				4.0
09N 27E 34									31.0	12.0	22.0						65.0

Total Acres: 178

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.
2. Rights 33-35A, 33-2068A, and 33-10997 when combined shall not exceed a total diversion rate of 2.28 cfs, a total annual maximum diversion volume of 430.5 af at the field headgate and the irrigation of 123 acres.
3. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
4. Rights 33-35A and 33-2068A when combined shall not exceed a total diversion rate of 2.28 cfs and the irrigation of 114 acres.
5. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

WATER RIGHT NO. 33-35A
As Modified by Transfer No. 71666

CONDITIONS OF APPROVAL

6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
10. This right is limited to the irrigation of 105.9 acres within the place of use described above in a single irrigation season.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 25th day of October, 2005


Chief, Water Allocation Bureau

WATER RIGHT NO. 33-2068A
As Modified by Transfer No. 71666

In accordance with the approval of Transfer No. 71666, Water Right No. 33-2068A is now described as follows.

Right Holder: PANCHERI INC
 1494 HWY 22
 HOWE ID 83244

Priority Date: January 14, 1953

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	11/01	2.21 CFS	399.0 AF
			2.21 CFS	399.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER (Injection)	SWNENW	Sec. 3 Twp 08N Rge 27E BUTTE County
GROUND WATER	L3 (SENENW)	Sec. 3 Twp 08N Rge 27E BUTTE County
GROUND WATER (Rediversion)	NESESW	Sec. 34 Twp 09N Rge 27E BUTTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
08N 27E 3	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	109.0
	1.0				25.0	4.0	32.0	32.0					15.0				
09N 27E 33													4.0				4.0
09N 27E 34									31.0	12.0	22.0						65.0

Total Acres: 178

CONDITIONS OF APPROVAL

1. Water Diverted under this right is exchanged by injecting water diverted under this right into the Little Lost River at the point of injection described above, and diverting an equal amount from Badger Creek at the point of rediversion described above.
2. Rights 33-35A, 33-2068A, and 33-10997 when combined shall not exceed a total diversion rate of 2.28 cfs, a total annual maximum diversion volume of 430.5 af at the field headgate and the irrigation of 123 acres.
3. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
4. Rights 33-35A and 33-2068A when combined shall not exceed a total diversion rate of 2.28 cfs and the irrigation of 114 acres.
5. Rights 33-2068B and 33-10997 are also diverted through the point(s) of diversion described above.

WATER RIGHT NO. 33-2068A
As Modified by Transfer No. 71666

CONDITIONS OF APPROVAL

6. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.
7. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
8. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the point of injection and point of diversion.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 25th day of October, 2005


Chief, Water Allocation Bureau

WATER RIGHT NO. 33-10997
As Modified by Transfer No. 71666

In accordance with the approval of Transfer No. 71666, Water Right No. 33-10997 is now described as follows.

Right Holder: PANCHERI INC
 1494 HWY 22
 HOWE ID 83244

Priority Date: April 15, 1953

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.17 CFS	
			0.17 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L3 (SEENW) Sec. 3 Twp 08N Rge 27E BUTTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N 27E 3		1.0			25.0	4.0		32.0	32.0						15.0		109.0
09N 27E 33													4.0				4.0
09N 27E 34									31.0	12.0	22.0						65.0

Total Acres: 178

CONDITIONS OF APPROVAL

1. This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, The earlier priority right is the superior right.
2. Water Diverted under this right is exchanged by injecting water diverted under this right into the Little Lost River at the point of injection described above, and diverting an equal amount from Badger Creek at the point of rediversion described above.
3. Rights 33-35A, 33-2068A, and 33-10997 when combined shall not exceed a total diversion rate of 2.28 cfs, a total annual maximum diversion volume of 430.5 af at the field headgate and the irrigation of 123 acres.
4. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
5. This right is limited to the irrigation of nine (9) acres within the place of use described above in a single irrigation season.

WATER RIGHT NO. 33-10997
As Modified by Transfer No. 71666

CONDITIONS OF APPROVAL

6. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.
7. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
8. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the point of injection and point of redirection.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
12. Rights 33-2068A and 33-2068B are also diverted through the point(s) of diversion described above.

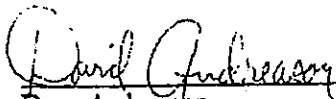
This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 25th day of October, 20 05


Chief, Water Allocation Bureau

Affidavit

The Pancheri family holds the following water rights whose point of diversion is Badger Creek (diverted 33-35A, re-diverted 33-2068A and 33-10997). Additionally the Pancheri family holds rights numbers 33-32A and 33-33A which have a point of diversion from the Little Lost River immediately upstream from the mouth of Badger Creek. Because the place of use for all these rights overlap, the confluence of Badger Creek and the Little Lost is located immediately downstream from each diversion, and there are no irrigation diversions between two above diversions and the confluence, the Pancheri family has historically and is currently allowed to divert all above water rights (combined total of 4.48 cfs) from either source.


Dave Andreason
Water Master

5-12-05
Date

Exhibit C

Transfer of Water Rights

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant Pancheri Inc. Phone (208) 767-3419Post Office address 1494 Highway 22; Howe, ID 83244**A. PURPOSE OF TRANSFER**

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes To add a point of diversion on the Little Lost River.**B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE**

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
33-10997	4/15/1953	0.17 cfs	Irrigation	04/15 to 10/31
33-35A	03/06/1907	0.72 cfs	Irrigation	04/01 to 11/01
33-2068A	01/14/1953	2.21 cfs	Irrigation	04/01 to 11/01
				to _____

2. Total amount of water being transferred 2.28 cubic feet per second and/or 430.5 acre-feet per annum.3. Source of water Groundwater and Badger Creek tributary to Little Lost River

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
	NE	NW	NE	33	09N	27E	BUTTE	LITTLE LOST RIVER, BADGER CREEK
SEE ATTACHED EXPLANATION								

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	27E	3		1.0			25.0	4.0		32.0	32.0					15.0			
															4.0				
												31.0	12.0	22.0					

Total Acres 178

PART 1

6. General Information:

a. Description of diversion system The current POD diverts all water from Badger Creek. The proposed POD would divert the water from the Little Lost River, leaving water instream in Badger Creek, which will dump into the Little Lost River below the new POD.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
_____ Yes ☒ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
None

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And the said application is hereby _____, subject to the following conditions:

Witness my hand this _____ day of _____, 20 _____.

For the Director

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

Transfer No. _____

Receipt No. _____

Current Water Right No. 33-10997

Priority Date: 04/15/1953

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER**Tributary to:**

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	04/15 10/31	0.17 CFS		
Total Diversion		0.17 CFS		

Source and Point(s) of Diversion:

GROUND WATER L3 (SENENW) 08N 27E 3 BUTTE

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N 27E 3		1.0			25.0	4.0		32.0	32.0						15.0		109.0
09N 27E 33													4.0				4.0
09N 27E 34										31.0	12.0	22.0					65.0

Total Acres: 178

Conditions/Remarks:

1. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.
3. Rights 33-2068A and 33-2068B are also diverted through the point(s) of diversion described above.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. This right is limited to the irrigation of nine (9) acres within the place of use described above in a single irrigation season.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Transfer No. _____
Receipt No. _____

Current Water Right No. 33-10997

7. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
8. Water Diverted under this right is exchanged by injecting water diverted under this right into the Little Lost River at the point of injection described above, and diverting an equal amount from Badger Creek at the point of rediversion described above.
9. This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, The earlier priority right is the superior right.
10. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the point of injection and point of rediversion.
11. Rights 33-35A, 33-2068A, and 33-10997 when combined shall not exceed a total diversion rate of 2.28 cfs, a total annual maximum diversion volume of 430.5 af at the field headgate and the irrigation of 123 acres.
12. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

Describe the affect on the current place of use for this water right if the place of use is changed pursuant to this transfer

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 33-35A-

Priority Date: 03/06/1907

Origin: Water Right

Basis: Decreed

Status: Active

Source: BADGER CREEK

Tributary to: LITTLE LOST RIVER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	04/01 11/01	0.72 CFS		
Total Diversion		0.72 CFS		

Source and Point(s) of Diversion:

BADGER CREEK NESESW 09N 27E 34 BUTTE

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N 27E 3		1.0			25.0	4.0		32.0	32.0					15.0			109.0
09N 27E 33													4.0				4.0
09N 27E 34										31.0	12.0	22.0					65.0

Total Acres: 178

Conditions/Remarks:

1. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
2. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 33-35A

6. Rights 33-35A and 33-2068A when combined shall not exceed a total diversion rate of 2.28 cfs and the irrigation of 114 acres.
7. This right is limited to the irrigation of 105.9 acres within the place of use described above in a single irrigation season.
8. Rights 33-35A, 33-2068A, and 33-10997 when combined shall not exceed a total diversion rate of 2.28 cfs, a total annual maximum diversion volume of 430.5 af at the field headgate and the irrigation of 123 acres.
9. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
10. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

Describe the affect on the current place of use for this water right if the place of use is changed pursuant to this transfer

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

Transfer No. _____
 Receipt No. _____

Current Water Right No. 33-2068A

Priority Date: 01/14/1953

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

Tributary to:

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	04/01	11/01	2.21 CFS	399.0 AFA	
Total Diversion			2.21 CFS	399.0 AFA	

Source and Point(s) of Diversion:

GROUND WATER	L3 (SENENW)	08N 27E	3	BUTTE
GROUND WATER (Rediversion)	NESESW	09N 27E	34	BUTTE
GROUND WATER (Injection)	SWNENW	08N 27E	3	BUTTE

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N 27E 3		1.0			25.0	4.0		32.0	32.0					15.0			109.0
09N 27E 33													4.0				4.0
09N 27E 34										31.0	12.0	22.0					65.0

Total Acres: 178

Conditions/Remarks:

1. Rights 33-35A, 33-2068A, and 33-10997 when combined shall not exceed a total diversion rate of 2.28 cfs, a total annual maximum diversion volume of 430.5 af at the field headgate and the irrigation of 123 acres.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the point of injection and point of rediversion.
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Transfer No. _____
Receipt No. _____

Current Water Right No. 33-2068A

5. Rights 33-35A and 33-2068A when combined shall not exceed a total diversion rate of 2.28 cfs and the irrigation of 114 acres.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Water Diverted under this right is exchanged by injecting water diverted under this right into the Little Lost River at the point of injection described above, and diverting an equal amount from Badger Creek at the point of rediversion described above.
8. Rights 33-2068B and 33-10997 are also diverted through the point(s) of diversion described above.
9. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
10. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
11. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

Describe the affect on the current place of use for this water right if the place of use is changed pursuant to this transfer

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

Application for Transfer of Water Right

Part 1

Additional Explanation

Water rights 33-10997 and 33-2068A are groundwater rights used for irrigation. Both had a groundwater well as the original POD. In a Transfer of Water Right, Transfer No. 71666, the POU was changed to Badger Creek, allowing all water from Badger Creek to be diverted for flood irrigation purposes. In this Application for Transfer of Water Right, the applicant is requesting an additional POD in the Little Lost River, which will allow water to remain instream in Badger Creek and the water to be diverted from an upstream diversion on the Little Lost River. The water will then be returned to the Little Lost River below the confluence with Badger Creek. The proposed POD on the Little Lost River is an existing POD for Water Right 33-33A and 33-32A.

Part 2

Is this property subject to any liens, deeds of trust, mortgages, or contract or other encumbrances?

No

Describe the affect on the current place of use for this water right if the place of use is changed pursuant to this transfer.

The place of use will not change – only the point of diversion. The land will continue to be irrigated by sprinkler irrigation with water pumped from the new POD in the Little Lost River, rather than flood irrigation that has in the past caused Badger Creek to go dry. The water left in Badger Creek will dump into the Little Lost River, essentially rewatering the Little Lost River below the proposed POD with cool, clean water.

To your knowledge, has any portion of the water right undergone a period of five (5) or more consecutive years of non-use?

No

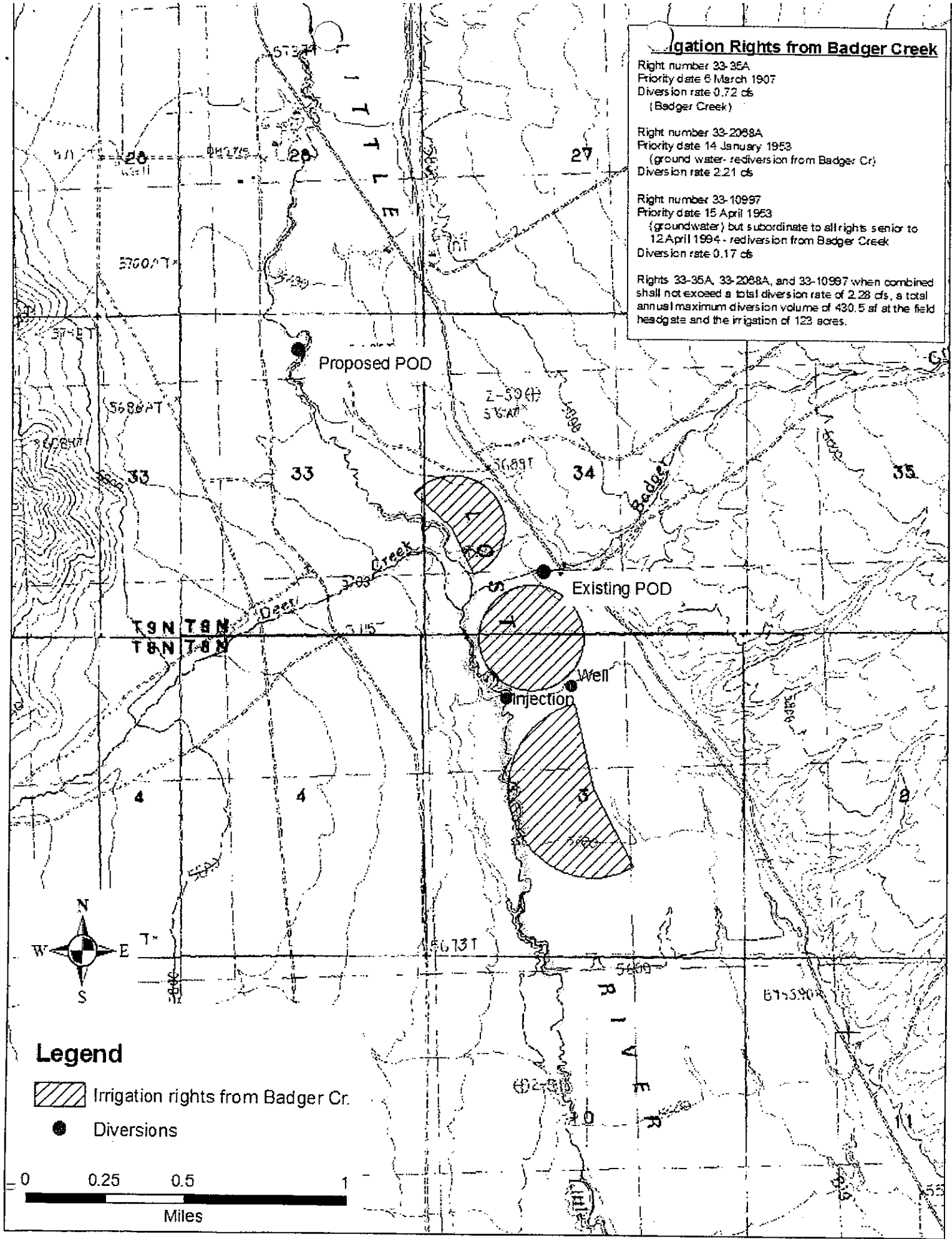
Irrigation Rights from Badger Creek

Right number 33-35A
Priority date 8 March 1907
Diversion rate 0.72 cfs
(Badger Creek)

Right number 33-2068A
Priority date 14 January 1953
(ground water - redirection from Badger Cr.)
Diversion rate 2.21 cfs

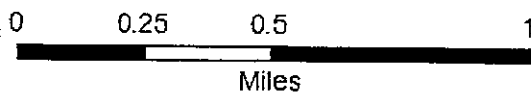
Right number 33-10997
Priority date 15 April 1953
(groundwater) but subordinate to all rights senior to
12 April 1994 - redirection from Badger Creek
Diversion rate 0.17 cfs

Rights 33-35A, 33-2068A, and 33-10997 when combined
shall not exceed a total diversion rate of 2.28 cfs, a total
annual maximum diversion volume of 430.5 af at the field
headgate and the irrigation of 123 acres.



Legend

-  Irrigation rights from Badger Cr.
-  Diversions



PART 3**B. CHANGES IN NATURE OF USE**

1	<u>New Nature of Use</u>	<u>Amount</u> (cfs/ac-ft)	<u>Hours/days/year</u>	<u>Period of Use</u>
				to _____
				to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.



Subscribed and sworn to before me this March day of 22, 19 2007

Rory Sanchez
(Signature of Applicant)

Nancy Bradley
(Notary Public)

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee _____

Recelpted by _____ Date _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

Exhibit D
Corrected Transfer No. 73532

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 73532

This is to certify that: PANCHERI INC
1494 HWY 22
HOWE ID 83244
(208)767-3419

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres Limit</u>	<u>Total Acres</u>	<u>Source</u>
33-35A	WR/Decreed	03/06/1907	0.72 cfs	N/A	105.9	178.0	BADGER CREEK
33-2068A	WR/Decreed	01/14/1953	2.21 cfs	399 af	114.0	178.0	GROUND WATER
33-10997	WR/Decreed	04/15/1953	0.17 cfs	N/A	9.0	178.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
33-35A	NO	YES No	NO	NO Yes	NO	NO
33-2068A	NO	YES No	NO	NO Yes	NO	NO
33-10997	NO	YES	NO	YES	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acres Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acres Limit</u>	<u>Remaining Total Acres</u>
33-35A	33-35A	0.72 cfs	N/A	105.9	178.0		N/A	N/A	N/A	N/A
33-2068A	33-2068A	2.21 cfs	399.0 af	114.0	178.0		N/A	N/A	N/A	N/A
33-10997	33-10997	0.17 cfs	31.5 af	9.0	178.0		N/A	N/A	N/A	N/A
COMBINED TOTALS		2.28 cfs	430.5 af	123.0	178.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 22nd day of August, 20 07



Administrator, Water Management Division

SUPPORT DATA

IN FILE # 33-35A

WATER RIGHT NO. 33-10997
As Modified by Transfer No. 73532

In accordance with the approval of Transfer No. 73532, Water Right No. 33-10997 is now described as follows.

Right Holder: PANCHERI INC
 1494 HWY 22
 HOWE ID 83244

Priority Date: April 15, 1953

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.17 CFS	31.5 AF
			0.17 CFS	31.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L3 (SENE)NW	Sec. 3	Twp 08N	Rge 27E	BUTTE County
GROUND WATER (Injection)	L3 (SW)NENW	Sec. 3	Twp 08N	Rge 27E	BUTTE County
GROUND WATER (Rediversion)	NENWNE	Sec. 33	Twp 09N	Rge 27E	BUTTE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	27E	3		1.0			25.0	4.0	32.0	32.0						15.0			109.0
09N	27E	33												4.0				4.0	
09N	27E	34								31.0	12.0	22.0						65.0	

Total Acres: 178

CONDITIONS OF APPROVAL

- The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the point of injection and point of rediversion.
- This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
- Rights 33-2068A and 33-2068B are also diverted through the point(s) of diversion described above.
- Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.
- Rights 33-35A, 33-2068A, and 33-10997 when combined shall not exceed a total diversion rate of 2.28 cfs, a total annual maximum diversion volume of 430.5 af at the field headgate and the irrigation of 123 acres.

WATER RIGHT NO. 33-10997
As Modified by Transfer No. 73532

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
8. Water Diverted under this right is exchanged by injecting water diverted under this right into the Little Lost River at the point of injection described above, and diverting an equal amount from Little Lost River at the point of rediversion described above.
9. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. This right is limited to the irrigation of 9 acres within the place of use described above in a single irrigation season.
12. This right does not grant any right-of-way or easement across the land of another.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 22nd day of August, 20 07


Administrator, Water Management Division

WATER RIGHT NO. 33-35A
As Modified by Transfer No. 73532

In accordance with the approval of Transfer No. 73532, Water Right No. 33-35A is now described as follows.

Right Holder: PANCHERI INC
 1494 HWY 22
 HOWE ID 83244

Priority Date: March 06, 1907

Source: LITTLE LOST RIVER

<u>BENEFICIAL USE</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01 to 11/01	0.72 CFS	
		0.72 CFS	

LOCATION OF POINT(S) OF DIVERSION:

LITTLE LOST RIVER NENWNE Sec. 33 Twp 09N Rge 27E BUTTE County
 Badger Creek NESESW Sec. 34 Twp 09N Rge 27E BUTTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N 27E 3		1.0			25.0	4.0		32.0	32.0							15.0	109.0
09N 27E 33													4.0				4.0
09N 27E 34										31.0	12.0	22.0					65.0

Total Acres: 178

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.
2. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
3. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. This right is limited to the irrigation of 105.9 acres within the place of use described above in a single irrigation season.
5. Rights 33-35A and 33-2068A when combined shall not exceed a total diversion rate of 2.28 cfs and the irrigation of 114 acres.
6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

WATER RIGHT NO. 33-35A
As Modified by Transfer No. 73532

CONDITIONS OF APPROVAL

7. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
8. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Rights 33-35A, 33-2068A, and 33-10997 when combined shall not exceed a total diversion rate of 2.28 cfs, a total annual maximum diversion volume of 430.5 af at the field headgate and the irrigation of 123 acres.
11. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the department for measuring the flow in Badger Creek at the original point of diversion, at the mouth of Badger Creek where it discharges into the Little Lost River and at the point of diversion from the Little Lost River
12. Diversion of water from the Little Lost River is limited to those times water is available for diversion under this right and priority from Badger Creek at the original point of diversion in the NESESW, S34 T09N R27E and to the amount of water that actually reaches the Little Lost River
13. This right does not grant any right-of-way or easement across the land of another.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 22nd day of August, 20 07


Administrator, Water Management Division

- 14. The diversion point on Badger Creek, NESESW T09N R27E S34 within Butte County, shall not be used under this water right prior to December 31, 2037.

WATER RIGHT NO. 33-2068A
As Modified by Transfer No. 73532

In accordance with the approval of Transfer No. 73532, Water Right No. 33-2068A is now described as follows.

Right Holder: PANCHERI INC
 1494 HWY 22
 HOWE ID 83244

Priority Date: January 14, 1953

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	2.21 CFS	399.0 AF
			2.21 CFS	399.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L3 (SENENW) Sec. 3 Twp 08N Rge 27E BUTTE County
 GROUND WATER (Injection) L3 (SWNENW) Sec. 3 Twp 08N Rge 27E BUTTE County
 GROUND WATER (Rediversion) NENWNE Sec. 33 Twp 09N Rge 27E BUTTE County
 GROUND WATER (Rediversion) NESESW Sec. 34 Twp 09N Rge 27E BUTTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N 27E 3		1.0			25.0	4.0		32.0	32.0						15.0		109.0
09N 27E 33													4.0				4.0
09N 27E 34										31.0	12.0	22.0					65.0

Total Acres: 178

CONDITIONS OF APPROVAL

1. Water diverted under this right is exchanged by injecting water diverted under this right into the Little Lost River at the point of injection described above, and diverting an equal amount from Little Lost River at the point of rediversion described above.
2. Rights 33-35A, 33-2068A, and 33-10997 when combined shall not exceed a total diversion rate of 2.28 cfs, a total annual maximum diversion volume of 430.5 af at the field headgate and the irrigation of 123 acres.
3. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the point of injection and point of rediversion.

WATER RIGHT NO. 33-2068A
As Modified by Transfer No. 73532

CONDITIONS OF APPROVAL

7. Rights 33-2068B and 33-10997 are also diverted through the point(s) of diversion described above.
8. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.
9. Rights 33-35A and 33-2068A when combined shall not exceed a total diversion rate of 2.28 cfs and the irrigation of 114 acres.
10. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
11. Rights 33-32A, 33-33A, 33-35A, 33-2068A and 33-10997 when combined shall not exceed a total diversion rate of 4.48 cfs and the irrigation of 178 acres.
12. This right does not grant any right-of-way or easement across the land of another.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 22nd day of August, 2007


Administrator, Water Management Division

- 13. The diversion point on Badger Creek, NESESW T09N R27E S34 within Butte County, shall not be used under this water right prior to December 31, 2037.